

Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

GWEN STINSON,

Plaintiff(s),

v.

CAVALRY PORTFOLIO SERVICES, LLC, a  
Delaware Limited Liability Company, and  
NANCY A. SMITH & ASSOCIATES, and  
Oregon Debt Collection Law Firm, and  
SMITH & GREAVES, LLP, an Oregon Debt  
Collection Law Firm; and NANCY A. SMITH,  
a Washington Licensed Debt Collection  
Attorney, and JAMES A. UNDERWOOD, a  
Washington Licensed Debt Collection  
Attorney, and ROBERT D. GREAVES, a  
Washington Licensed Debt Collection  
Attorney,

Defendant(s).

NO. 3:12-cv-05036-BHS

CAVALRY PORTFOLIO SERVICES, LLC'S  
ANSWER AND AFFIRMATIVE DEFENSES  
TO PLAINTIFF'S COMPLAINT

JURY DEMAND

Defendant CAVALRY PORTFOLIO SERVICES, LLC (hereinafter "Cavalry" or "CPS"), by  
and through its undersigned attorneys, answers Plaintiff's *Complaint for Injunctive Relief for  
Violations of the Washington Consumer Protection Act, the Washington Collection Agency Act,  
and the Fair Debt Collection Practices Act, Inter Alia* dated January 2, 2012 as follows:

CAVALRY PORTFOLIO SERVICES, LLC'S ANSWER  
AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S  
COMPLAINT - 1

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**PREG O'DONNELL & GILLET** PLLC

1800 NINTH AVENUE, SUITE 1500

SEATTLE, WASHINGTON 98101-1340

TELEPHONE: (206) 287-1775 • FACSIMILE: (206) 287-9113

1                                   **A. NON-WAIVER OF RIGHT TO ARBITRATION**

2           Defendant Cavalry files this *Answer and Affirmative Defenses* to comply with Rule 12 of  
3 the Federal Rules of Civil Procedure. By doing so, Cavalry does not intend to waive or  
4 otherwise impair its right to enforce the arbitration agreement which binds Plaintiff with respect  
5 to the debt obligation described in her Complaint.

6                                   **B. ADMISSIONS AND DENIALS**

7                                   **I. STATEMENT OF THE CASE**

8           1.1     Section I of the Complaint does not comply with the pleading requirements of  
9 Fed.R.Civ.Proc. 8, particularly with subsection (d)(1), and therefore should be stricken.

10          1.2     To the extent a further response is necessary, Defendant CPS denies the  
11 allegations in Section I except to admit only the following specific allegations: pursuant to a valid  
12 assignment from the debt's owner, CPS filed a lawsuit against Plaintiff Gwen Stinson ("Plaintiff"  
13 or "STINSON") in the District Court of the State of Washington, Cowlitz County, Cause No.  
14 11C0869 ("Collection Lawsuit"), to collect on Plaintiff's unpaid and defaulted credit card account;  
15 documents were placed in the Collection Lawsuit file, including Plaintiff's Credit Card  
16 Agreement; Plaintiff was represented by an attorney in the Collection Lawsuit; other pleadings  
17 were filed in the Collection Lawsuit and there was correspondence among the parties' attorneys;  
18 CPS settled its dispute with Plaintiff in the Collection Lawsuit, in connection with which it  
19 dismissed the action against Plaintiff and reimbursed legal costs to her; and Plaintiff's Complaint  
20 in this lawsuit includes a request for injunctive relief, which should be denied by the Court.

21                                   **II. PARTIES**

22          2.1     Answering paragraph 2.1, Cavalry denies the allegations contained therein for  
23 lack of sufficient knowledge and information.

24          2.2     Answering paragraph 2.2, Cavalry admits that Plaintiff Gwen Stinson obtained a  
25 credit card from Citibank. Cavalry is without knowledge or information sufficient to form a belief

1 as to the truth or falsity of the remaining allegations in paragraph 2.2 and, therefore, denies the  
2 allegations contained therein.

3 2.3 Answering paragraph 2.3, Cavalry states that these are arguments and legal  
4 conclusions which are not subject to denial or admission. To the extent a further response is  
5 required, Cavalry denies the allegations for lack of sufficient knowledge and information.

6 2.4 Answering paragraph 2.4, Cavalry denies the allegations except to admit it is a  
7 Delaware limited liability company and that it sometimes purchases charged off credit card  
8 accounts.

9 2.5 Answering paragraph 2.5, Cavalry denies the allegations except to admit it  
10 sometimes attempts to collect debts, but not third party debts.

11 2.6 Answering paragraph 2.6, Cavalry states that these are arguments and legal  
12 conclusions which are not subject to denial or admission. To the extent a further response is  
13 required, Cavalry admits its Washington UBI number is 602235105 and that it sometimes acts  
14 as a "debt collector" within the meaning of the FDCPA, but denies the remaining allegations for  
15 lack of sufficient knowledge and information.

16 2.7 Answering paragraph 2.7, Cavalry states that these are arguments and legal  
17 conclusions which are not subject to denial or admission. To the extent a further response is  
18 required, Cavalry denies the allegations except to admit only it sometimes acts as a "debt  
19 collector" and/or "collection agency" within the meaning of the FDCPA, but Cavalry denies  
20 sufficient knowledge and information as to whether it so acted with respect to the Plaintiff, and  
21 therefore denies same.

22 2.8 Answering paragraph 2.8, Cavalry denies the allegations for lack of sufficient  
23 knowledge and information except to admit only that NANCY A. SMITH & ASSOCIATES,  
24 SMITH & GREAVES, and JAMES A. UNDERWOOD (collectively "Attorney Defendants") held  
25 themselves out to Cavalry as attorneys licensed to practice law in Washington.

2.9 Answering paragraph 2.9, Cavalry states that these are arguments and legal conclusions which are not subject to denial or admission. To the extent a further response is required, Cavalry denies the allegations contained therein for lack of sufficient knowledge and information.

2.10 Answering paragraph 2.10, Cavalry denies the allegations for lack of sufficient knowledge and information except to admit only that the Attorney Defendants held themselves out to Cavalry as attorneys licensed to practice law in Washington and they represented Cavalry in the Collection Lawsuit.

2.11 Answering paragraph 2.11, Cavalry denies the allegations contained therein for lack of sufficient knowledge and information.

2.12 Answering paragraph 2.12, Cavalry states that these are arguments and legal conclusions which are not subject to denial or admission. To the extent a further response is required, Cavalry denies the allegations contained therein for lack of sufficient knowledge and information except to admit only that Cavalry attempted in good faith to collect a lawful debt owed by the Plaintiff.

### III. JURISDICTION AND VENUE

3.1 Responding to paragraph 3.1, Cavalry admits jurisdiction and venue but otherwise denies the allegations contained therein.

3.2 Answering paragraph 3.2, Cavalry states that these are arguments and legal conclusions which are not subject to denial or admission. To the extent a further response is required, Cavalry denies the allegations contained therein.

### IV. FACTS

4.1 Answering paragraph 4.1, Cavalry admits that Plaintiff applied for and received a credit card from Citibank, and she entered into a Card Agreement with Citibank related to her use of the credit card. Cavalry is without knowledge or information sufficient to form a belief as

1 to the truth or falsity of the remaining allegations and, therefore, denies generally and  
2 specifically, each and every allegation contained therein.

3 4.2 Answering paragraph 4.2, Cavalry admits the same.

4 4.3 Answering paragraph 4.3, Cavalry denies the allegations contained therein.

5 4.4 Answering paragraph 4.4, Cavalry denies the allegations contained therein.

6 4.5 Answering paragraph 4.5, Cavalry admits the same, except to deny the  
7 implications of the use of the contentious word "nevertheless".

8 4.6 Answering paragraph 4.6, Cavalry states that these are arguments and legal  
9 conclusions which are not subject to denial or admission. To the extent a further response is  
10 required, Cavalry denies the allegations contained therein.

11 4.7 Answering paragraph 4.7, Cavalry denies the allegations contained therein.

12 4.8 Answering paragraph 4.8, Cavalry denies the allegations contained therein.

13 4.9 Answering paragraph 4.9, Cavalry admits that it filed Plaintiff's Card Agreement  
14 as an exhibit to the Complaint in the Collection Lawsuit. Cavalry denies the remaining  
15 allegations in paragraph 4.9, including the implications from the use of the contentious phrase  
16 "in fact".

17 4.10 Answering paragraph 4.10, Cavalry states that these are arguments and legal  
18 conclusions which are not subject to denial or admission. To the extent a further response is  
19 required, Cavalry admits it did not file with the Complaint in the Collection Lawsuit an affidavit or  
20 declaration along with Plaintiff's Credit Card Agreement, but Cavalry denies it was required to  
21 do so and further denies the remaining allegations contained therein.

22 4.11 Answering paragraph 4.11, Cavalry denies the allegations contained therein  
23 except to admit only that a copy of Plaintiff's Credit Card Agreement was properly made part of  
24 the Collection Lawsuit court file.  
25

1           4.12    Answering paragraph 4.12, Cavalry denies the allegations therein except to  
2 admit only that it did not file a "bill of sale", affidavit, or declaration with the Collection Lawsuit  
3 Complaint.

4           4.13    Answering paragraph 4.13, Cavalry denies the allegations contained therein.

5           4.14    Answering paragraph 4.14, Cavalry admits the Collection Lawsuit Complaint did  
6 not explicitly state the date of Plaintiff's default on her credit card obligations but denies the  
7 implications of the contentious word "even".

8           4.15    Answering paragraph 4.15, Cavalry denies the allegations contained therein.

9           4.16    Answering paragraph 4.16, Cavalry states that these are arguments and legal  
10 conclusions which are not subject to denial or admission. To the extent a further response is  
11 required, Cavalry denies the allegations contained therein.

12           4.17    Answering paragraph 4.17, Cavalry denies the allegations contained therein,  
13 except to admit only that it filed the Collection Lawsuit and Plaintiff was represented by an  
14 attorney. Cavalry specifically denies the Collection Lawsuit was frivolous and the implications of  
15 the contentious word "nevertheless".

16           4.18    Answering paragraph 4.18, Cavalry denies the allegations contained therein for  
17 lack of sufficient knowledge and information.

18           4.19    Answering paragraph 4.19, Cavalry admits the Complaint in the Collection  
19 Lawsuit did not contain an itemized calculation of Plaintiff's debt, but otherwise denies the  
20 allegations therein for lack of sufficient knowledge and information.

21           4.20    Answering paragraph 4.20, Cavalry admits the Complaint in the Collection  
22 Lawsuit did not contain an itemized calculation of Plaintiff's debt or a statement of the date of  
23 Plaintiff's last payment on her debt obligation, but otherwise denies the allegations therein  
24 including the implications of the contentious words "furthermore" and "most surely".

25           4.21    Answering paragraph 4.21, Cavalry admits the allegations therein.

1           4.22    Answering paragraph 4.22, Cavalry states that these are arguments and legal  
2 conclusions which are not subject to denial or admission. To the extent a further response is  
3 required, Cavalry denies the allegations contained therein.

4           4.23    Answering paragraph 4.23, Cavalry states that these are arguments and legal  
5 conclusions which are not subject to denial or admission. To the extent a further response is  
6 required, Cavalry admits it dismissed the Collection Lawsuit against Plaintiff but denies there  
7 was no evidence of Plaintiff's indebtedness and otherwise denies the allegations therein.

8           4.24    Answering paragraph 4.24, Cavalry states that these are arguments and legal  
9 conclusions which are not subject to denial or admission. To the extent a further response is  
10 required, Cavalry denies the allegations, and asserts it settled its dispute with Plaintiff in the  
11 Collection Lawsuit, in connection with which it reimbursed legal costs to Plaintiff.

12           4.25    Answering paragraph 4.25, Cavalry states that these are arguments and legal  
13 conclusions which are not subject to denial or admission. To the extent a further response is  
14 required, Cavalry denies the allegations contained therein, including specifically the contentions  
15 the Collection Lawsuit was "frivolous, baseless, [and] time-barred".

16           4.26    Answering paragraph 4.26, Cavalry states that these are arguments and legal  
17 conclusions which are not subject to denial or admission. To the extent a further response is  
18 required, Cavalry denies the allegations, and specifically asserts it settled its dispute with  
19 Plaintiff in the Collection Lawsuit, in connection with which it reimbursed legal costs to Plaintiff.

20           4.27    Answering paragraph 4.27, Cavalry states that these are arguments and legal  
21 conclusions which are not subject to denial or admission. To the extent a further response is  
22 required, Cavalry denies the allegations contained therein except to admit only it filed the  
23 Collection Lawsuit.

24           4.28    Answering paragraph 4.28, Cavalry denies the allegations contained therein.  
25

1 4.29 Answering paragraph 4.29, Cavalry states that these are arguments and legal  
2 conclusions which are not subject to denial or admission. To the extent a further response is  
3 required, Cavalry denies the allegations contained therein.

4 **V. FAIR DEBT COLLECTION PRACTICES ACT VIOLATION**  
5 **(Application of the Statute)**

6 5.1 Answering paragraph 5.1, Cavalry incorporates by reference its answers to  
7 paragraphs 1.1-4.29 above as though fully set forth herein.

8 5.2 Answering paragraph 5.2, Cavalry states that these are arguments and legal  
9 conclusions which are not subject to denial or admission. To the extent a further response is  
10 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
11 incorporated by this reference. Cavalry otherwise denies the allegations contained therein for  
12 lack of sufficient knowledge and information.

13 5.3 Answering paragraph 5.3, Cavalry states that these are arguments and legal  
14 conclusions which are not subject to denial or admission. To the extent a further response is  
15 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
16 incorporated by this reference. Cavalry otherwise denies the allegations contained therein for  
17 lack of sufficient knowledge and information.

18 5.4 Answering paragraph 5.4, Cavalry states that these are arguments and legal  
19 conclusions which are not subject to denial or admission. To the extent a further response is  
20 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
21 incorporated by this reference. Cavalry otherwise denies the allegations contained therein for  
22 lack of sufficient knowledge and information.

23 5.5 Answering paragraph 5.5, Cavalry states that these are arguments and legal  
24 conclusions which are not subject to denial or admission. To the extent a further response is  
25 required, Cavalry asserts the text of the cited statute sections speak for themselves and are



1 incorporated by this reference. Cavalry admits only it sometimes acts as a "debt collector"  
 2 and/or "collection agency" within the meaning of the FDCPA, but Cavalry denies sufficient  
 3 knowledge and information as to whether it so acted with respect to the Plaintiff, and therefore  
 4 denies same.

5 5.6 Answering paragraph 5.6, Cavalry states that these are arguments and legal  
 6 conclusions which are not subject to denial or admission. To the extent a further response is  
 7 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
 8 incorporated by this reference. Cavalry otherwise denies the allegations contained therein for  
 9 lack of sufficient knowledge and information.

10 5.7 Answering paragraph 5.7, Cavalry states that these are arguments and legal  
 11 conclusions which are not subject to denial or admission. To the extent a further response is  
 12 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
 13 incorporated by this reference. Cavalry otherwise denies the allegations contained therein for  
 14 lack of sufficient knowledge and information.

15 5.8 Answering paragraph 5.8, Cavalry states that these are arguments and legal  
 16 conclusions which are not subject to denial or admission. To the extent a further response is  
 17 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
 18 incorporated by this reference. Cavalry admits only it sometimes acts as a "debt collector"  
 19 and/or "collection agency" within the meaning of the FDCPA, but Cavalry denies sufficient  
 20 knowledge and information as to whether it so acted with respect to the Plaintiff, and therefore  
 21 denies same.

## 22 VI. FIRST CAUSE OF ACTION

### 23 Fair Debt Collection Practices Act Violation (False, Deceptive or Misleading Representations)

24 6.1 Answering paragraph 6.1, Cavalry incorporates by reference its answers to  
 25 paragraphs 1.1-5.8 above as though fully set forth herein.

1           6.2     Answering paragraph 6.2, Cavalry states that these are arguments and legal  
2 conclusions which are not subject to denial or admission. To the extent a further response is  
3 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
4 incorporated by this reference. Cavalry otherwise denies the allegations contained therein for  
5 lack of sufficient knowledge and information.

6           6.3     Answering paragraph 6.3, Cavalry states that these are arguments and legal  
7 conclusions which are not subject to denial or admission. To the extent a further response is  
8 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
9 incorporated by this reference. Cavalry otherwise denies the allegations contained therein for  
10 lack of sufficient knowledge and information.

11          6.4     Answering paragraph 6.4, Cavalry states that these are arguments and legal  
12 conclusions which are not subject to denial or admission. To the extent a further response is  
13 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
14 incorporated by this reference. Cavalry otherwise denies the allegations contained therein for  
15 lack of sufficient knowledge and information.

16          6.5     Answering paragraph 6.5, Cavalry states that these are arguments and legal  
17 conclusions which are not subject to denial or admission. To the extent a further response is  
18 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
19 incorporated by this reference. Cavalry otherwise denies the allegations contained therein for  
20 lack of sufficient knowledge and information.

21          6.6     Answering paragraph 6.6, Cavalry states that these are arguments and legal  
22 conclusions which are not subject to denial or admission. To the extent a further response is  
23 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
24 incorporated by this reference. Cavalry otherwise denies the allegations contained therein for  
25 lack of sufficient knowledge and information.

1           6.7     Answering paragraph 6.7, Cavalry states that these are arguments and legal  
2 conclusions which are not subject to denial or admission. To the extent a further response is  
3 required, Cavalry admits filing the Collection Lawsuit but otherwise denies the allegations  
4 contained therein for lack of sufficient knowledge and information.

5           6.8     Answering paragraph 6.8, Cavalry denies the allegations contained therein,  
6 except Cavalry admits filing the Collection Lawsuit.

7           6.9     Answering paragraph 6.9, Cavalry admits the same.

8           6.10    Answering paragraph 6.10, Cavalry denies the allegations contained therein.

9           6.11    Answering paragraph 6.11, Cavalry admits it attached a copy of Plaintiff's Credit  
10 Card Agreement to the Complaint in the Collection Lawsuit, but Cavalry otherwise denies the  
11 allegations contained therein.

12          6.12    Answering paragraph 6.12, Cavalry denies the allegations contained therein,  
13 except Cavalry admits filing the Collection Lawsuit.

14          6.13    Answering paragraph 6.13, Cavalry denies the allegations contained therein,  
15 except Cavalry admits filing the Collection Lawsuit.

16          6.14    Answering paragraph 6.14, Cavalry denies the allegations contained therein.

17          6.15    Answering paragraph 6.15, Cavalry admits it settled its dispute with Plaintiff in  
18 the Collection Lawsuit and, in connection with that settlement, it dismissed the Collection  
19 Lawsuit against the Plaintiff. Cavalry denies the remaining allegations contained therein.

20          6.16    Answering paragraph 6.16, Cavalry states that these are arguments and legal  
21 conclusions which are not subject to denial or admission. To the extent a further response is  
22 required, Cavalry admits it settled its dispute with Plaintiff in the Collection Lawsuit, in  
23 connection with which it dismissed that action and reimbursed legal costs to Plaintiff, but denies  
24 the remaining allegations therein.

25          6.17    Answering paragraph 6.17, Cavalry denies the allegations contained therein.

1 6.18 Answering paragraph 6.18, Cavalry denies the allegations contained therein.

2 6.19 Answering paragraph 6.19, Cavalry denies the allegations contained therein,  
3 except Cavalry admits filing the Collection Lawsuit.

4 6.20 Answering paragraph 6.20, Cavalry denies the allegations contained therein.

5 6.21 Answering paragraph 6.21, Cavalry denies the allegations contained therein.

6 6.22 Answering paragraph 6.22, Cavalry denies the allegations contained therein.

7 **VII. SECOND CAUSE OF ACTION**

8 **Fair Debt Collection Practices Act Violation**  
9 **(Unfair Practices - Threats)**

10 7.1. Answering paragraph 7.1, Cavalry incorporates by reference its answers to  
11 paragraphs 1.1-6.22 above as though fully set forth herein.

12 7.2 Answering paragraph 7.2, Cavalry states that these are arguments and legal  
13 conclusions which are not subject to denial or admission. To the extent a further response is  
14 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
15 incorporated by this reference. Cavalry otherwise denies the allegations contained therein for  
16 lack of sufficient knowledge and information.

17 7.3 Answering paragraph 7.3, Cavalry states that these are arguments and legal  
18 conclusions which are not subject to denial or admission. To the extent a further response is  
19 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
20 incorporated by this reference.

21 7.4 Answering paragraph 7.4, Cavalry admits the same.

22 7.5 Answering paragraph 7.5, Cavalry denies the allegations contained therein.

23 7.6 Answering paragraph 7.6, Cavalry denies the allegations contained therein.

24 7.7 Answering paragraph 7.7, Cavalry denies the allegations contained therein.

25 7.8 Answering paragraph 7.8, Cavalry denies the allegations contained therein.

7.9 Answering paragraph 7.9, Cavalry denies the allegations contained therein.

1           7.10    Answering paragraph 7.10, Cavalry denies the allegations contained therein for  
2 lack of sufficient knowledge and information.

3           7.11    Answering paragraph 7.11, Cavalry states that these are arguments and legal  
4 conclusions which are not subject to denial or admission. To the extent a further response is  
5 required, Cavalry denies the allegations contained therein.

6           7.12    Answering paragraph 7.12, Cavalry denies the allegations contained therein.

7           7.13    Answering paragraph 7.13, Cavalry states that these are arguments and legal  
8 conclusions which are not subject to denial or admission. To the extent a further response is  
9 required, Cavalry denies the allegations contained therein.

10                               **VIII.   THIRD CAUSE OF ACTION**  
11                               **(State Collection Agency Act Violation)**

12           8.1    Answering paragraph 8.1, Cavalry incorporates by reference its answers to  
13 paragraphs 1.1-7.13 above as though fully set forth herein.

14           8.2    Answering paragraph 8.2, Cavalry states that these are arguments and legal  
15 conclusions which are not subject to denial or admission. To the extent a further response is  
16 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
17 incorporated by this reference.

18           8.3    Answering paragraph 8.3, Cavalry states that these are arguments and legal  
19 conclusions which are not subject to denial or admission. To the extent a further response is  
20 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
21 incorporated by this reference.

22           8.4    Answering paragraph 8.4, Cavalry states that these are arguments and legal  
23 conclusions which are not subject to denial or admission. To the extent a further response is  
24 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
25 incorporated by this reference.

1           8.5     Answering paragraph 8.5, Cavalry states that these are arguments and legal  
2 conclusions which are not subject to denial or admission. To the extent a further response is  
3 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
4 incorporated by this reference.

5           8.6     Answering paragraph 8.6, Cavalry states that these are arguments and legal  
6 conclusions which are not subject to denial or admission. To the extent a further response is  
7 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
8 incorporated by this reference.

9           8.7     Answering paragraph 8.7, Cavalry states that these are arguments and legal  
10 conclusions which are not subject to denial or admission. To the extent a further response is  
11 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
12 incorporated by this reference.

13           8.8     Answering paragraph 8.8, Cavalry denies the allegations contained therein.

14           8.9     Answering paragraph 8.9, Cavalry denies the allegations contained therein.

15           8.10    Answering paragraph 8.10, Cavalry denies the allegations contained therein.

16           8.11    Answering paragraph 8.11, Cavalry admits the Complaint in the Collection  
17 Lawsuit did not contain an itemized calculation of Plaintiff's debt, but otherwise denies the  
18 allegations therein.

19           8.12    Answering paragraph 8.12, Cavalry admits the Collection Lawsuit Complaint did  
20 not explicitly state the date of Plaintiff's default on her credit card obligations, but it denies the  
21 remaining allegations contained therein.

22           8.13    Answering paragraph 8.13, Cavalry admits the Collection Lawsuit Complaint did  
23 not allege a date of default on Plaintiff's credit card obligation, but it denies the remaining  
24 allegations contained therein.

25           8.14    Answering paragraph 8.14, Cavalry denies the allegations contained therein.

1 8.15 Answering paragraph 8.15, Cavalry denies the allegations contained therein.

2 8.16 Answering paragraph 8.16, Cavalry denies the allegations contained therein.

3 8.17 Answering paragraph 8.17, Cavalry states that these are arguments and legal  
4 conclusions which are not subject to denial or admission. To the extent a further response is  
5 required, Cavalry denies the allegations contained therein.

6 **IX. FOURTH CAUSE OF ACTION**  
7 **(Per Se Consumer Protection Act Violation)**

8 9.1 Answering paragraph 9.1, Cavalry incorporates by reference its answers to  
9 paragraphs 1.1-8.17 above as though fully set forth herein.

10 9.2 Answering paragraph 9.2, Cavalry states that these are arguments and legal  
11 conclusions which are not subject to denial or admission. To the extent a further response is  
12 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
13 incorporated by this reference.

14 9.3 Answering paragraph 9.3, Cavalry states that these are arguments and legal  
15 conclusions which are not subject to denial or admission. To the extent a further response is  
16 required, Cavalry denies the allegations contained therein.

17 9.4 Answering paragraph 9.4, Cavalry states that these are arguments and legal  
18 conclusions which are not subject to denial or admission. To the extent a further response is  
19 required, Cavalry denies the allegations contained therein.

20 9.5 Answering paragraph 9.5, Cavalry states that these are arguments and legal  
21 conclusions which are not subject to denial or admission. To the extent a further response is  
22 required, Cavalry denies the allegations contained therein.

23 9.6 Answering paragraph 9.6, Cavalry states that these are arguments and legal  
24 conclusions which are not subject to denial or admission. To the extent a further response is  
25 required, Cavalry denies the allegations contained therein.

1           9.7     Answering paragraph 9.7, Cavalry states that these are arguments and legal  
2 conclusions which are not subject to denial or admission. To the extent a further response is  
3 required, Cavalry denies the allegations contained therein for lack of sufficient knowledge and  
4 information.

5           9.8     Answering paragraph 9.8, Cavalry states that these are arguments and legal  
6 conclusions which are not subject to denial or admission. To the extent a further response is  
7 required, Cavalry denies the allegations contained therein.

8           9.9     Answering paragraph 9.9, Cavalry states that these are arguments and legal  
9 conclusions which are not subject to denial or admission. To the extent a further response is  
10 required, Cavalry denies the allegations contained therein.

11          9.10    Answering paragraph 9.10, Cavalry states that these are arguments and legal  
12 conclusions which are not subject to denial or admission. To the extent a further response is  
13 required, Cavalry denies the allegations contained therein.

14          9.11    Answering paragraph 9.11, Cavalry denies the allegations contained therein.

15          9.12    Answering paragraph 9.12, Cavalry states that these are arguments and legal  
16 conclusions which are not subject to denial or admission. To the extent a further response is  
17 required, Cavalry denies the allegations contained therein.

18                   **X.   FIFTH CAUSE OF ACTION**  
19                   **(Consumer Protection Act Violation - *In the Alternative*)**

20          10.1    Answering paragraph 10.1, Cavalry incorporates by reference its answers to  
21 paragraphs 1.1-9.12 above as though fully set forth herein

22          10.2    Answering paragraph 10.2, Cavalry states that these are arguments and legal  
23 conclusions which are not subject to denial or admission. To the extent a further response is  
24 required, Cavalry asserts the text of the cited case speaks for itself, but denies Plaintiff's  
25 interpretation of the case.



1           10.3    Answering paragraph 10.3, Cavalry states that these are arguments and legal  
2 conclusions which are not subject to denial or admission. To the extent a further response is  
3 required, Cavalry asserts the text of the cited statute sections speak for themselves and are  
4 incorporated by this reference. Cavalry denies the remainder of the allegations therein.

5           10.4    Answering paragraph 10.4, Cavalry states that these are arguments and legal  
6 conclusions which are not subject to denial or admission. To the extent a further response is  
7 required, Cavalry denies the allegations contained therein.

8           10.5    Answering paragraph 10.5, Cavalry states that these are arguments and legal  
9 conclusions which are not subject to denial or admission. To the extent a further response is  
10 required, Cavalry denies the allegations contained therein.

11           10.6    Answering paragraph 10.6, Cavalry states that these are arguments and legal  
12 conclusions which are not subject to denial or admission. To the extent a further response is  
13 required, Cavalry asserts the text of the cited case speaks for itself, but denies Plaintiff's  
14 interpretation of the case.

15           10.7    Answering paragraph 10.7, Cavalry states that these are arguments and legal  
16 conclusions which are not subject to denial or admission. To the extent a further response is  
17 required, Cavalry denies the allegations contained therein.

18           10.8    Answering paragraph 10.8, Cavalry states that these are arguments and legal  
19 conclusions which are not subject to denial or admission. To the extent a further response is  
20 required, Cavalry denies the allegations contained therein.

21           10.9    Answering paragraph 10.9, Cavalry denies the allegations contained therein.

22           10.10   Answering paragraph 10.10, Cavalry states that these are arguments and legal  
23 conclusions which are not subject to denial or admission. To the extent a further response is  
24 required, Cavalry denies the allegations contained therein.

25           10.11   Answering paragraph 10.11, Cavalry denies the allegations contained therein.



**XIV. RIGHT TO SET-OFF**

Cavalry may be entitled to a set-off of any potential damages.

**XV. SETTLEMENT AND RELEASE**

Plaintiff's settlement with Defendant Cavalry in the Collection Lawsuit effected a release of all claims against Defendant Cavalry which she asserted in her Complaint.

**XVI. ACCORD AND SATISFACTION**

Plaintiff's settlement with Defendant Cavalry in the Collection Lawsuit effected an accord and satisfaction of all claims she asserted in her Complaint.

**XVII. ERROR**

Any violation of the Fair Debt Collection Practices Act ("FDCPA") by Cavalry, which Cavalry denies, was not intentional and resulted from bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

**XVIII. LACHES**

The Complaint, and particularly Plaintiff's claim for injunctive relief therein, is barred by laches.

**XIX. MOOTNESS**

The Complaint, and particularly Plaintiff's claim for relief therein, is barred by mootness.

**XX. INDEMNIFICATION AND/OR ALLOCATION OF FAULT**

Any damages allegedly suffered by Plaintiff were caused, at least in part, or contributed to by conduct and fault of persons over whom Cavalry had neither control nor responsibility, including the Plaintiff. Cavalry is therefore entitled indemnity and/or contribution from all such at-fault persons under RCW Chap. 4.22.

**XXI. CONTRIBUTORY / COMPARATIVE FAULT**

Any damages sustained by Plaintiff were caused, at least in part, or contributed to, by the actions and fault of Plaintiff herself and resulted from Plaintiff's own negligence and, therefore, the doctrine of comparative negligence should be applied.

**XXII. ESTOPPEL**

Any damages that Plaintiff may have suffered, which Cavalry denies, were the direct and proximate result of the conduct of Plaintiff. Therefore, Plaintiff is estopped and barred from recovery of any damages.

**XXIII. STATUTE OF LIMITATIONS**

Some or all of the claims for relief in the Complaint are barred or reduced by the applicable statutes of limitation.

**XXIV. FAILURE TO MITIGATE**

Plaintiff has failed to mitigate her damages.

**D. ADDITIONAL DEFENSES AND CLAIMS**

Cavalry does not waive, but rather it expressly reserves, any and all other defenses, affirmative defenses, claims, counterclaims, cross claims, and third party claims it may have based on the evidence known at the time of trial. Cavalry reserves the right to assert such additional defenses and claims as such time and to such extent as warranted by discovery and the factual development of this case.

**E. REQUEST FOR TRIAL BY JURY**

Without waiving its right to compel arbitration of the dispute between the parties as provided by the written agreement between the parties, if the Court denies Cavalry's demand for arbitration then Cavalry requests a trial by jury pursuant to U.S. Const. Amend. 7, Fed.R.Civ.Proc. 38.

**F. PRAYER FOR RELIEF**

Wherefore, having fully answered Plaintiff's Complaint, Defendant Cavalry Portfolio Services, LLC prays for the following relief:

1) That the Court dismiss or stay this matter and order the Plaintiff to arbitrate all of her disputes.

2) That Plaintiff takes nothing by virtue of the Complaint herein and that this action be dismissed in its entirety.

3) That the Court award Cavalry judgment against Plaintiff for Cavalry's litigation costs and expenses incurred herein including, without limitation, the following items: court costs, statutory attorneys' fees, reasonable attorneys' fees, and prejudgment interest.

4) That the Court award Cavalry such other and further relief as the Court deems just and proper.

DATED this 9th day of April, 2012.

PREG O'DONNELL & GILLETT PLLC

By s/William E. Fitzharris, Jr.

William E. Fitzharris, Jr.

WSBA #7122

Attorneys for Defendant Cavalry Portfolio Services, LLC

CERTIFICATE OF SERVICE

I hereby certify that on April 9, 2010, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the attorneys of record listed below:

**For Plaintiff**

Robert D. Mitchell  
*bobmitchellaw@yahoo.com*

**For Defs. Nancy A. Smith & Associates;**

**Smith & Greaves LLP; James A.**

**Underwood; Nancy A. Smith; and Robert D.**  
**Greaves**

Suzanne K. Pierce, WSBA #22733  
*spierce@davisrothwell.com*

s/William E. Fitzharris, Jr.

William E. Fitzharris, Jr., WSBA #7122

Email: *wfitzharris@pregodonnell.com*

Mary C. Eklund, WSBA #12416

Email: *meklund@pregodonnell.com*

Attorneys for Def. Cavalry Portfolio Services, Inc.

PREG O'DONNELL & GILLET PLLC

1800 Ninth Ave., Suite 1500

Seattle, WA 98101-1340

Telephone: (206) 287-1775